

1 it?

2 (Pause to review document.)

3 JUDGE GONZALEZ: Your, your response, sir?

4 MR. EMMONS: One of the issues is, is Mr. Nelson's
5 state of mind about things that were said in the Motion for
6 Summary Decision and in his accompanying declarations and the
7 Motion for Summary Decision, among other things, stated that
8 the Management Committee operated informally. And if the
9 candor of that statement is at issue, then certainly Mr.
10 Nelson's testimony about what he believed to be the case, that
11 it operated informally, is relevant. He needs to be able to
12 state what he believed in order for him to be able to defend
13 the assertions that the Bill of Particulars had raised about
14 the candor of the, of the statements.

15 JUDGE GONZALEZ: Well, I, I agree with the Bureau.
16 I don't see the relevance of those sentences and they're
17 stricken. Any further objections?

18 MR. WEBER: Yes, Your Honor. I move to strike
19 paragraph 13. This paragraph makes control arguments and I --
20 and is irrelevant to the issues of candor.

21 JUDGE GONZALEZ: All right. I'll, I'll read through
22 the paragraph.

23 (Pause to review the document.)

24 JUDGE GONZALEZ: Mr. Emmons?

25 MR. EMMONS: Your Honor, a couple of responses.

1 First of all, what this evidence shows is activity of SJI and
2 communications between SJI and -- the Bill of Particulars
3 states at the very beginning that one of the issues is whether
4 USCC lacked candor, misrepresented facts or attempted to
5 mislead the Commission in its testimony about the extent of
6 SJI and SJI's principals in the -- application. If the issue
7 is whether U.S. Cellular misrepresented the extent of SJI's
8 involvement, then we have to be able to put in evidence of
9 what the involvement was and this paragraph is directly that
10 kind of evidence. Beyond that, Your Honor, the Hearing
11 Designation Order in this case as I quoted I think in this
12 morning's session says that "There does not appear to any
13 record evidence to support Nelson's understanding that
14 Belendiuk had obtained prior approval from SJI managing
15 committee members." Well, this is evidence, Your Honor, in
16 paragraph 13 in the attachments that directly supports Mr.
17 Nelson's understanding that Mr. Belendiuk was communicating
18 with SJI and was obtaining SJI's approval for courses of
19 action that Mr. Belendiuk was recommending. So this goes to
20 the -- I can't read paragraph 32 of the Hearing Designation
21 Order any other way than an invitation that there be a record
22 on what evidence if any supports Mr. Nelson's understanding
23 that Mr. Belendiuk was communicating with SJI and getting SJI
24 approval. That's exactly what this --

25 JUDGE GONZALEZ: Mr. Weber?

1 MR. WEBER: Although there is an issue of whether
2 the USCC witnesses lacked candor in their discussions of SJI's
3 involvement in dealings with counsel, I see nothing in
4 paragraph 13 which shows that TDS had any knowledge of any of
5 these conversations between Mr. Brady and Mr. Belendiuk and
6 that is all that paragraph 13 is talking about is the
7 conversations between the two and --

8 JUDGE GONZALEZ: Yeah, we're not -- we're really not
9 even apprised of the nature of the conversations.

10 MR. EMMONS: No, on that point, Your Honor, I have
11 to interject on that point. There is plenty of evidence in
12 other documents of Mr. Nelson's awareness and knowledge of
13 communications between Mr. Belendiuk and SJI. It is all over
14 Mr. Belendiuk's billing invoices which were submitted and
15 reviewed by Mr. Nelson because U.S. Cellular had the
16 obligation to pay the bills and those invoices which are
17 already in evidence say in many, many places conference with
18 Mr. Brady, conference with Mr. Crenshaw, telephone
19 conferences --

20 JUDGE GONZALEZ: Yeah, but what I think concerned or
21 what the Bureau seems to be concerned about, there's no
22 indication that this information specifically -- the list of
23 telephone calls I guess originate with SJI, that that
24 information was conveyed to --

25 MR. EMMONS: Well, I'm at a loss to understand the

1 Bureau's objection then because Bureau Exhibit 23 is the --
2 list of telephone bills that is at Tab A that's referenced in
3 this paragraph 13. The Bureau has offered it -- or at least
4 has obtained it as evidence itself.

5 MR. SCHNEIDER: There is also one other point. I'll
6 let Mr. --

7 JUDGE GONZALEZ: Yeah, I think Mr. -- is there
8 inconsistent between the exchange and your objection?

9 MR. WEBER: No, I mean the Bureau offered that as
10 evidence to put before the USCC witnesses to seek to what
11 extent they were aware of these conversations. And again, I
12 have no objection to any of the evidence by Mr. Nelson to the
13 extent he was aware of any conversations between Mr. Brady and
14 Mr. Belendiuk. I just don't see the purpose --

15 JUDGE GONZALEZ: Yeah, I agree.

16 MR. WEBER: -- of having Mr. Brady's statements.

17 MR. SCHNEIDER: May I be heard?

18 JUDGE GONZALEZ: Yes, sir.

19 MR. SCHNEIDER: I don't mean to interrupt, but there
20 is --

21 JUDGE GONZALEZ: Well, he was finished, I gather.
22 Were you finished, sir?

23 MR. WEBER: Yes.

24 MR. SCHNEIDER: I didn't mean to interrupt you, but
25 you are going to asked to make findings on a very specific

1 question. Mr. Nelson has testified that when Mr. Belendiuk
2 called him he often would say -- generally would say "I have
3 talked to the people at SJI, I have talked to the SJI members"
4 or something to that effect. And he has testified and will
5 testify again that those statements were made and that that
6 and other things gave him evidence that -- to believe that
7 those statements were true, that Mr. Belendiuk had spoken with
8 the people at SJI. This paragraph, all it does -- it may
9 relate to control, I understand that, but information that
10 relates to control also relates to other things. And one of
11 the things that this relates to is the belief the statement
12 that Mr. Nelson has made that he was told that SJI had
13 conversations with Mr. Belendiuk about the LaStar case. This
14 is at its most fundamental proof of that, the fact that there
15 was a basis for him to believe that because in fact they had
16 occurred. That's totally irrelevant to control. It is only
17 relevant to his state of mind about that statement that he was
18 told and that he --

19 JUDGE GONZALEZ: Well, I'm not so concerned about
20 the control aspect. I'm really more concerned about the
21 objection that it doesn't say anything about his state of mind
22 -- Mr. Nelson's state of mind. That's -- I'm not really as
23 concerned about the argument that could be made that it --
24 somehow it deals with the -- or addresses the control issue.

25 MR. EMMONS: But Your Honor --

1 JUDGE GONZALEZ: It's really more the objection that
2 Mr. Weber has that it doesn't really give a clear indication
3 of what Mr. Nelson's state of mind is or whether this
4 information was ever conveyed to him. I'm fairly certain, and
5 with some feeling of confidence I can sustain the objection
6 because I believe that the information that you want to get
7 in, that there were telephone communications between SJI and
8 Belendiuk will come in through some other means more
9 acceptable. I don't really find this paragraph acceptable in
10 its present -- the way it's presently worded so it will -- I
11 will strike that paragraph.

12 MR. EMMONS: Your Honor, would you entertain
13 testimony from Mr. Belendiuk then that he had more
14 conversations with SJI than simply those that were reflected
15 on his own telephone records because these are SJI's telephone
16 records we're talking about here and they are records of --
17 they will show --

18 JUDGE GONZALEZ: But apparently they're going to be
19 coming in under --

20 MR. WEBER: I have no objection to their tabs
21 actually being admitted.

22 JUDGE GONZALEZ: Which list the telephone calls.

23 MR. WEBER: Which actually may raise a point we've
24 discussed, the testimony --

25 JUDGE GONZALEZ: Tab B.

1 MR. WEBER: -- referring to a particular tab is
2 stricken does the tab go along with it or is the tab also
3 stricken? Actually, I will have no objection to Tab A or for
4 that matter B being --

5 MR. EMMONS: B is simply a summary --

6 MR. SCHNEIDER: Perhaps we ought to make the
7 objection to the specific sentence within the paragraph so
8 that you could leave statements for example like the second
9 sentence -- appended at Tab A are copies of SJI's long-
10 distance telephone records covering the period October 8 --

11 JUDGE GONZALEZ: All right. Yeah, I agree. I think
12 perhaps that would be a better way to do it and --

13 MR. WEBER: Okay. Well then I would strike the
14 first sentence.

15 JUDGE GONZALEZ: Okay, and I agree it should be
16 stricken. But the second sentence will remain in.

17 MR. EMMONS: And could we keep the next one in too
18 just for purposes of identifying what the telephone numbers
19 are? I think that's essential information.

20 JUDGE GONZALEZ: Right. I agree. And again, the
21 following paragraph, I mean the following sentence is just
22 further explanation of what the table -- well then so in
23 effect it's really only the first sentence that's stricken in
24 that paragraph. Is that agreeable to you, Mr. Weber?

25 MR. WEBER: Yes, Your Honor.

1 JUDGE GONZALEZ: Any further objections?

2 (Whereupon, the sentence of the
3 aforementioned paragraph was stricken.)

4 MR. WEBER: Yes. Object to paragraph 14 in its
5 entirety. This paragraph discusses about issues that Mr.
6 Belendiuk spoke to Mr. Brady about and again I would argue
7 that this is not probative of any of the designated issues and
8 there's no nexus showing that any of the USCC witnesses were
9 directly aware of the conversations.

10 MR. EMMONS: Your Honor, I wonder if I could ask
11 counsel then for the Bureau to explain, because I'm really at
12 a loss and I'm sort of bewildered by the statement in the Bill
13 of Particulars now that I quoted a moment ago that the Bureau
14 believes an issue is whether USCC lacked candor in its
15 testimony about the extent of SJI's involvement in the LaStar
16 application. If that's an issue, I don't see how that issue
17 can be resolved without a record on the extent of SJI's
18 application. I don't see how it can be determined whether or
19 not anybody lied about that until the facts of what happened
20 are determined. So, Mr. Weber may wish to address that
21 sentence in the Bill of Particulars because I'm at a loss to
22 understand it in light of the argument that Mr. Weber has made
23 on his objection.

24 JUDGE GONZALEZ: Mr. Weber?

25 MR. WEBER: I had thought I responded to that

1 | previously. There is indeed an issue whether or not USCC
2 | lacked candor in its description of SJI's involvement.
3 | However, Mr. Brady's statement of any discussions he had with
4 | Mr. Belendiuk does not in any way lead us to the fact that TDS
5 | was truthful or candid in its description. There's nothing
6 | again that shows that USCC was aware of any of these
7 | discussions between Mr. Belendiuk and Mr. Brady.

8 | MR. SCHNEIDER: Your Honor, I can address that.

9 | JUDGE GONZALEZ: Okay.

10 | MR. SCHNEIDER: First, if TDS made statements about
11 | SJI's activities and those statements were true, they could
12 | not have been misrepresentations or lacked -- or lack of
13 | candor. Second, you have to look at the evidence as a whole.
14 | This is a complicated case involving very serious issues about
15 | representation. Mr. Nelson had certain information before
16 | him. He can only provide part of the story. He knows what he
17 | saw. He saw certain bills, certain references, certain -- he
18 | had certain things disclosed to him by counsel, Mr. Belendiuk,
19 | about conversations with the Bradys. What this paragraph
20 | does, and it's not conclusory like some of the others you've
21 | stricken, is that it fills in the details and corroborates the
22 | statements Mr. Nelson has made about what he did know, what he
23 | was told, what he saw pass before him including correspondence
24 | referencing telephone conversations, statements made by
25 | counsel to him about what was discussed between counsel and

1 the Bradys. This will do two things. Corroborate Mr.
2 Nelson's statements and give the complete record of what was
3 discussed. For both of those reasons I think it is relevant
4 to your assessment of Mr. Nelson's veracity of Mr. Nelson's
5 statements about --

6 MR. WEBER: On the point of just going in the tracks
7 of you will, the Bureau will buy that argument and withdraw
8 the objection to this paragraph although we'd like to make the
9 statement we do hope that in no way when we get to the point
10 of filing proposed findings -- try to overturn the control
11 finding or try to any way say the control finding was
12 incorrect.

13 JUDGE GONZALEZ: Well, there's no way they can.

14 MR. WEBER: I know.

15 JUDGE GONZALEZ: There is no way they can. I mean
16 as far as I'm concerned it's not an issue. I mean, I will
17 entertain a motion to strike any argument directed to --

18 MR. SCHNEIDER: Having had that statement made let
19 us go on the record I think. We have no desire, intention of
20 challenging any of the legal conclusions, any of the
21 applications of facts or legal conclusions in the LaStar
22 decision. You have said we wouldn't be able to do that in
23 this proceeding if we tried.

24 JUDGE GONZALEZ: Right.

25 MR. SCHNEIDER: What we are here to do is show you

1 the state of mind of our witnesses.

2 JUDGE GONZALEZ: Well, that's certainly my
3 understanding of what you're required to do. Well then, in
4 light of the withdrawn of the objection we'll move on to the
5 next objection. Mr. Weber?

6 MR. WEBER: Yes, Your Honor, I would move to strike
7 paragraphs 16, 17 and 18 as being irrelevant.

8 JUDGE GONZALEZ: The entire paragraphs?

9 MR. WEBER: Yes, Your Honor.

10 JUDGE GONZALEZ: Mr. Emmons? Your objection is
11 relevancy?

12 MR. WEBER: Yes, Your Honor, I fail to how these
13 relate to --

14 MR. EMMONS: Well, once again I come back to my
15 point that the -- an issue raised by the Bill of Particulars
16 is whether U.S. Cellular lacked candor about the involvement
17 of SJI and this -- these paragraphs -- I'm sorry, was it 16
18 through 18 was the --

19 JUDGE GONZALEZ: 16 through 18, right.

20 MR. EMMONS: -- paragraphs described involvement by
21 SJI which is the predicate against which Your Honor must make
22 a determination about whether U.S. Cellular's statements about
23 involvement of SJI were candid or not. So I think we need to
24 have the predicate in order to be able to draw any conclusion
25 at all on the issue. Beyond that, as I look at paragraph 17

1 | which makes a reference to Tab C and Tab D, those are
2 | documents on which Mr. Nelson was -- and therefore are
3 | directly relevant to his awareness of the this activity -- the
4 | activity that is described in the letters in question and his
5 | state of mind about the involvement and what he knew about the
6 | involvement of SJI on the matters referred to. And although I
7 | haven't had an opportunity to go through the billing invoices
8 | that came to Mr. Nelson's attention that would reflect
9 | communication between Mr. Belendiuk and SJI, I am quite sure
10 | that there are references in those invoices to communications
11 | between Mr. Belendiuk and SJI that are the communications or
12 | may very well be the communications referred to in paragraph
13 | 18 about the application for -- operating authority and
14 | related matters. And so again to that extent, this testimony
15 | will corroborate the understanding of Mr. Nelson that Mr.
16 | Belendiuk was indeed working with or communicating with SJI
17 | about these matters on the LaStar application.

18 | MR. SCHNEIDER: In summary, Your Honor, we think --
19 | I think paragraphs 17 and 18 are much like 14 only probably
20 | more clear given the references to tabs and some of the cross-
21 | references -- other testimony. Paragraph 16 which I -- we
22 | still think is relevant is a little different, but --

23 | MR. WEBER: Well, as to paragraph 16, I really don't
24 | believe there's anything there that corroborates SJI's
25 | involvement. It just merely says that -- reviewed

1 something --

2 JUDGE GONZALEZ: Yeah, I agree. I don't see the
3 relevance of that paragraph at all and that will be stricken,
4 paragraph 16.

5 (Whereupon, paragraph 16 of the
6 aforementioned exhibit was stricken.)

7 MR. WEBER: As for paragraph 17, it discusses
8 settlement negotiations and to my recollection the only thing
9 in the Bureau's Bill of Particulars which discusses the
10 settlement negotiations questions Mr. Nelson's involvement in
11 those settlements and we already have testimony admitted in
12 Exhibit 2, Mr. Nelson's testimony in which he describes what
13 he meant when he testified previously about his involvement in
14 the settlement.

15 MR. SCHNEIDER: And, Your Honor, I think that would
16 prove our point, which is that since you have Mr. Nelson's
17 testimony about it this will corroborate and give you the
18 context for which -- in which to view that testimony. And
19 that's exactly I think the spirit with which the Bureau
20 withdrew the objection on Exhibit 14 given I think your
21 feelings on it. And that is my purpose in drawing to you the
22 distinction between 16 and paragraphs 17 and 18 which as Mr.
23 Emmons ably demonstrated show a continuum of what Mr. Nelson
24 knew, what was put before him and what those things referred
25 to.

1 MR. HARDMAN: If I may, Your Honor, I've been
2 relatively quiet on -- and I don't wish to prolong this, but
3 I've been doing so on the understanding that we're not dealing
4 with weight here. I mean, different counsel say this
5 corroborates evidence and so on and I certainly do want to
6 infer from my silence that we agreed that this corroborates
7 anything.

8 JUDGE GONZALEZ: No, that's certainly not my
9 intention. In fact, I think I've mentioned it several times
10 that a lot of it I'm sure the parties will be arguing the
11 weight that should be attributed to it, no, that goes without
12 saying. And also too what I've mentioned several times too, a
13 lot of these calls are really very close because of the nature
14 of the issue. So in many ways it's been almost Solomon-like
15 trying to come to a decision as to how to rule. But I think
16 because of the nature of the issue I probably feel that if an
17 error is committed it should probably be in favor of USCC and
18 TDS if there is an error. I certainly would make every effort
19 to rule correctly, but I think if it's a really close call I
20 probably would lean towards ruling to permit the objected to
21 portions remain part of the record. The only thing I guess
22 that bothers me is how does -- again, how -- we've already
23 stricken paragraph 16. 17 and 18, how does that relate to the
24 state of mind of the witnesses whose testimony is under
25 question? I mean, I see Roy Carlson's name and he was the

1 fellow that was sort of an informal member or at least it's
2 alleged was an informal member of the management committee.
3 Is that the --

4 MR. EMMONS: That's right. That's a name -- that's
5 a reference, Your Honor, to the letter at Tab C --

6 JUDGE GONZALEZ: Right.

7 MR. EMMONS: -- which --

8 JUDGE GONZALEZ: And it's your contention that
9 because Roy Carlson was notified that it can be assumed that
10 Mr. Nelson was also notified?

11 MR. EMMONS: More than that, Your Honor. Mr. Nelson
12 was listed as receiving a copy of that letter.

13 JUDGE GONZALEZ: Oh, was he? Where is that?

14 MR. EMMONS: At the bottom left on the letter, c.c.
15 H. Donald Nelson.

16 JUDGE GONZALEZ: But it's not entered in the
17 paragraph though, it's not mentioned in the paragraph?

18 MR. EMMONS: No. The letter is described in the
19 paragraph --

20 JUDGE GONZALEZ: But it doesn't mention the c.c. I
21 see. Okay.

22 MR. EMMONS: Right, c.c.'d on the bottom.

23 JUDGE GONZALEZ: Because I thought I heard you say
24 that and I was looking for Nelson's name but -- all right.

25 MR. EMMONS: And likewise, in Tab D which is a

1 letter also from Mr. Belendiuk as -- counsel to the other
2 party in the settlement negotiation, if you'll look at --

3 JUDGE GONZALEZ: Yeah, I see the c.c.

4 MR. SCHNEIDER: What we're trying to demonstrate,
5 Your Honor, is that at times when certain people stepped in
6 for other people they kept them informed so that they were
7 kept informed. And as Mr. Nelson testified, it was my
8 understanding that the SJI people were involved in the very
9 activities that are described in 17 and 18, you'll find two
10 things. You'll find there's a link as to how Mr. Nelson
11 learned of that and believed that, and you'll also have the
12 testimony of the very person who it was stated performed or
13 did something -- perform that or not. And, you know, as you
14 said, that's a question of weight. I mean, you may find that
15 you feel that it's very corroborative of something or you may
16 find given other factors it's not, but that's something that
17 would have to be argued to you in findings.

18 JUDGE GONZALEZ: What about paragraph 18? That
19 doesn't seem as clear.

20 MR. EMMONS: Well, Your Honor, the --

21 JUDGE GONZALEZ: That there was any communication
22 to --

23 MR. EMMONS: Well, I think that that link is
24 provided, Your Honor, in Exhibit 2, Tab C which is Mr.
25 Nelson's testimony -- through looking in particular pages 6

1 and 7 of that which are the billing invoices of Mr. Belendiuk
2 to LaStar addressed to Mr. Nelson for the month of February
3 1988. That was the month in which essentially all the work
4 that was done by LaStar was done in preparing the application
5 that LaStar -- operating authority. And in the description of
6 services rendered at the bottom of page 1 and carrying over to
7 page 2, it's hard to say when it's not highlighted but for
8 example -- the very bottom, the last line on page 6 of the
9 exhibit the last three words "Conference with," and carried
10 over "Conference with Crenshaw." And then two entries later,
11 "Conference with John Brady." Then another sentence or two
12 later, "Conferences with several people including John Brady,"
13 with SJI. Another couple of entries later, "Conferences with
14 Mr. Crenshaw with SJI." Another entry a couple entries later,
15 "Letter to John Brady." And then further on, another letter
16 to John Brady. So and this is an invoice that as you can see
17 on page 1 is addressed to Mr. Nelson as was the practice
18 because U.S. Cellular was responsible for paying the invoices.
19 And so this is evidence coming to Mr. Nelson's attention of
20 communications between Mr. Belendiuk and the people at SJI and
21 that's the same subject that is discussed now in paragraph 18
22 of Mr. Brady's testimony and so paragraph 18 amplifies, fills
23 in some details and confirms the things that are shown in
24 Exhibit 2, Tab C which are the invoices that came to Mr.
25 Nelson's attention.

1 JUDGE GONZALEZ: But what does it add, really, to
2 the letters that are already part of the evidence?

3 MR. SCHNEIDER: Your Honor, you've said that part of
4 this is going to involve your assessment of the weight or the
5 credibility of this corroborating evidence. This is not a
6 snapshot, this is a motion picture. In order for you to see
7 to believe whether or not our witnesses were being candid or
8 truthful in their testimony, I think what you need to see is
9 the full picture of the evidence and it fills in the cracks,
10 it explains what -- there may be 15 difference references to
11 how Mr. Nelson believed that the Bradys were involved in some
12 of these conversations. Some of them are references in bills,
13 some of them may be references in letters he was copied on,
14 some of them are phone calls he had directly with Mr.
15 Belendiuk. In order to understand all of those things, it is
16 certainly relevant to for you to have as I would say from the
17 horse's mouth, the individual who was involved in those
18 conversations that other evidence shows were conveyed in one
19 form or another to Mr. Nelson. Does that make it clear?

20 JUDGE GONZALEZ: Yes, I think so, and I will
21 overrule the objection with respect to that paragraph. So,
22 the only paragraph being stricken in response to that
23 objection was paragraph 16. Any further objections? Again,
24 I'm letting it in primarily because I think it helps -- as Mr.
25 Schneider has mentioned, it helps explain an exhibit already

1 admitted. Any further objections?

2 MR. WEBER: Yes, Your Honor. Paragraph 23, the
3 second and third sentence.

4 JUDGE GONZALEZ: The second and third?

5 MR. WEBER: Yes, actually then the first eight words
6 of the fourth sentence. So, strike from "On behalf of SJI"
7 and then starting again -- start the fourth sentence with the
8 word "The amendment."

9 JUDGE GONZALEZ: That's the second line from the
10 bottom?

11 MR. WEBER: Third line from the bottom. I mean
12 fourth line from the bottom, Your Honor.

13 JUDGE GONZALEZ: The fourth, I'm sorry. So, "On
14 behalf" down to "Our position and," right?

15 MR. WEBER: Exactly.

16 JUDGE GONZALEZ: Okay.

17 MR. EMMONS: May I confer with Mr. Schneider for a
18 moment on that, Your Honor?

19 JUDGE GONZALEZ: Surely.

20 MR. SCHNEIDER: Your Honor, I think that with the --
21 we'll accede to that -- we'll have that part of it stricken.

22 MR. EMMONS: We'll withdraw it.

23 MR. SCHNEIDER: We'll withdraw it.

24 MR. EMMONS: I don't believe there are going to be
25 any assertions that that's not the case, but I think that the

1 objection to it is relevant and we'll accede and allow that to
2 be stricken.

3 JUDGE GONZALEZ: All right, it's stricken, and the
4 sentence will begin with "The amendment"?

5 MR. EMMONS: Correct.

6 JUDGE GONZALEZ: All right.

7 (Whereupon, the aforementioned material
8 was stricken.)

9 JUDGE GONZALEZ: Further objections, sir?

10 MR. SCHNEIDER: Your Honor, one thing. I'm sorry to
11 interrupt. I might add, just to make things clear Mr. Brady
12 is in effect -- we've sponsored his testimony but he's
13 represented here today not by us so that you understand that,
14 but by Mr. Kirkland. In other words, before we agree to
15 strike his testimony I feel somewhat compelled to ask Mr.
16 Kirkland if he has any objection on behalf of his client.

17 MR. KIRKLAND: If I did I would certainly --

18 JUDGE GONZALEZ: Well, thanks for pointing it out to
19 me because I, I wasn't aware of -- I'm sorry, Mr. Kirkland
20 that I haven't looked in your direction at all.

21 MR. KIRKLAND: No, Your Honor, my client's interest
22 in this proceeding is to supply information the court deems
23 relevant to the extent -- as not being relevant, perfectly
24 willing to acquiesce --

25 MR. SCHNEIDER: I apologize for the interjection. I

1 just felt that --

2 JUDGE GONZALEZ: Well, no, I'm glad you did because
3 I had -- although I guess initially I was aware of it but it
4 had slipped my mind. Any further objections?

5 MR. WEBER: Yes, Your Honor, I have one final one.
6 Paragraph 27, I would strike the first two sentences or move
7 to strike the first two sentences as irrelevant. They're
8 merely stating Mr. Brady's state of mind.

9 JUDGE GONZALEZ: Those two sentences are stricken.
10 (Whereupon, the aforementioned material
11 was stricken.)

12 MR. SCHNEIDER: Mr. Kirkland --

13 JUDGE GONZALEZ: Well, he'll speak up if he isn't,
14 correct? Those two sentences, the first two sentences of
15 paragraph 27 are stricken.

16 MR. EMMONS: And then perhaps the word "moreover" in
17 the next sentence.

18 JUDGE GONZALEZ: All right. The sentence will begin
19 with "I."

20 MR. SCHNEIDER: Your Honor, I would certainly expect
21 Mr. Kirkland to speak but if he is intimidated in any way
22 he'll certainly let me know about it outside -- I'm protecting
23 myself.

24 MR. KIRKLAND: I'm assuming that --

25 JUDGE GONZALEZ: Mr. Hardman, do you have any

1 objection?

2 MR. HARDMAN: With the understanding that was stated
3 before, I do not have additional objections.

4 JUDGE GONZALEZ: All right. Thank you, sir. Not
5 hearing any further objections, I will receive the document
6 which has been identified as --

7 MR. EMMONS: TDS-USCC Exhibit 3.

8 JUDGE GONZALEZ: Exhibit 3, right. With all the
9 tabs, correct?

10 MR. EMMONS: Yes, Your Honor.

11 (Whereupon, the document referred to
12 as TDS-USCC Exhibit No. 3 was
13 received into evidence.)

14 JUDGE GONZALEZ: I think we can go on then to the
15 next exhibit which is Exhibit 4.

16 MR. EMMONS: TDS-USCC Exhibit 4, Your Honor. I'd
17 ask that it be identified as the direct -- testimony of
18 Sinclair H. Crenshaw and the testimony consists of 10 pages
19 plus a cover and declaration and there are Attachments A
20 through F. Attachment A is a letter of two pages dated
21 September 2, 1987.

22 JUDGE GONZALEZ: All right.

23 MR. EMMONS: Attachment B is a letter of two pages
24 dated December 2, 1987.

25 JUDGE GONZALEZ: All right.

1 MR. EMMONS: Attachment C is -- the first two pages
2 of it are a letter dated June 12, 1990 and the remaining four
3 pages are the draft of a portion of a legal document so that
4 the exhibit totals -- pages.

5 JUDGE GONZALEZ: All right.

6 MR. EMMONS: Exhibit D is a memorandum on the first
7 page dated August 7, 1990 followed by a letter -- second page
8 dated August 1, 1990, followed by a memorandum on pages 3
9 through 6 also dated August 1, 1990.

10 JUDGE GONZALEZ: All right.

11 MR. EMMONS: Tab E is a -- five pages relating to
12 LaStar tax returns.

13 JUDGE GONZALEZ: All right.

14 MR. EMMONS: And finally, Exhibit F is -- two pages
15 also relating to --

16 JUDGE GONZALEZ: Those are identified as well, the
17 Tab A through F.

18 (Whereupon, the document referred to
19 as TDS-USCC Exhibit No. 4 was marked
20 for identification.)

21 JUDGE GONZALEZ: Are there any objections to receipt
22 of any portion of that document?

23 MR. WEBER: Yes, Your Honor. I would start with
24 paragraph 7 and move to strike the final paragraph that starts
25 on page 3 and continues over to page 4.

1 JUDGE GONZALEZ: Final sentence?

2 MR. WEBER: Yes. I'm sorry, did I say final
3 paragraph? Final sentence.

4 UNIDENTIFIED PARTY: Is that the same --

5 JUDGE GONZALEZ: Yes.

6 UNIDENTIFIED PARTY: We'll withdraw --

7 JUDGE GONZALEZ: It's stricken.

8 MR. WEBER: Your Honor, we're agreeing to the
9 striking of it. That doesn't obviously indicate we don't
10 believe it's true or untrue.

11 JUDGE GONZALEZ: Understood. Any further
12 objections?

13 MR. WEBER: Yes, Your Honor. I would -- in
14 paragraph 8 I would move to strike the final two sentences as
15 irrelevant.

16 JUDGE GONZALEZ: Does it begin with "I also knew"?
17 Is that all once sentence?

18 MR. WEBER: I have no objection.

19 JUDGE GONZALEZ: I'm sorry, yeah. And the nature of
20 your objection again, sir?

21 MR. WEBER: Just relevance. Once again, this is Mr.
22 Crenshaw's state of mind and it's not probative of USCC's
23 state of mind.

24 MR. SCHNEIDER: Your Honor, it's inconsistent with
25 your prior rulings if you would take these two sentences out.

1 JUDGE GONZALEZ: Yeah.

2 MR. SCHNEIDER: We'll maintain our exception.

3 JUDGE GONZALEZ: Right. No, I -- that's certainly.
4 That would certainly be my ruling, yeah. Those two -- the
5 last two sentences are stricken.

6 (Whereupon, the aforementioned material
7 was stricken.)

8 JUDGE GONZALEZ: Any further objections?

9 MR. WEBER: I would move to strike paragraph 12 in
10 its entirety on the basis of relevancy.

11 MR. SCHNEIDER: In this case, Your Honor, consistent
12 with I think your prior ruling you should keep this paragraph
13 in because as you've -- as we've discussed earlier, this goes
14 to show the frame of mind of the entire management committee
15 with respect to the participation of Mr. Carlson and other TDS
16 individuals, USCC individuals in meetings. And there is going
17 to be -- there's been quite a bit of debate perhaps about
18 statements made concerning the functioning of the management
19 committee and why Mr. Carlson was involved rather than Mr.
20 Nelson or if Mr. Carlson was or wasn't involved did that make
21 the statement untrue. And I think the perspective of all of
22 these individuals will give you the picture as to what -- and
23 corroborate why Mr. Nelson, or another individual's testimony
24 was whether true or not submitted with the belief that it was
25 candid, accurate and --